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

2778

2009-2010 Regular Sessions

I N S E N A T E

March 2, 2009

Introduced by Sens. RANZENHOFER, FUSCHILLO, LARKIN, LIBOUS, PADAVAN, SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the real property tax law, in relation to a real property tax cap for persons over seventy years of age

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 467-g to read as follows:

S 467-G. REAL PROPERTY TAX CAP FOR CERTAIN PERSONS OVER SEVENTY YEARS OF AGE. 1. REAL PROPERTY OWNED BY ONE OR MORE PERSONS, EACH OF WHOM IS SEVENTY YEARS OF AGE OR OVER, OR REAL PROPERTY OWNED BY HUSBAND AND WIFE, ONE OF WHOM IS SEVENTY YEARS OF AGE OR OVER, MAY BE SUBJECT TO A REAL PROPERTY TAX CAP PROVIDED THE GOVERNING BOARD OF ANY MUNICIPAL CORPORATION IN WHICH THE REAL PROPERTY IS LOCATED, AFTER PUBLIC HEARING, ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THAT REAL PROPERTY TAXES FOR SUCH PROPERTY BE CAPPED AT THE AMOUNTS PAYABLE AT THE TIME SUCH APPLICATION IS MADE.

2. PROPERTY SHALL BE ELIGIBLE FOR A TAX CAP IF:

(A) THE INCOME OF THE OWNER OR THE COMBINED INCOME OF THE OWNERS OF THE PROPERTY FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING APPLICATION FOR THE CAP DOES NOT EXCEED THE SUM OF SEVENTY THOUSAND DOLLARS. INCOME SHALL MEAN THE AGGREGATE ADJUSTED GROSS INCOME OF ALL OWNERS FOR THE TAXABLE YEAR AS FILED, OR AS WOULD HAVE BEEN FILED, ON THEIR FEDERAL PERSONAL INCOME TAX RETURN.

(B) THE TITLE OF THE PROPERTY SHALL HAVE BEEN VESTED IN THE OWNER OR ONE OF THE OWNERS OF THE PROPERTY FOR AT LEAST THIRTY-SIX CONSECUTIVE MONTHS PRIOR TO THE DATE OF MAKING APPLICATION FOR A CAP, PROVIDED, HOWEVER, THAT IF AS THE RESULT OF THE DEATH OF EITHER A HUSBAND OR WIFE IN WHOSE NAME TITLE OF THE PROPERTY WAS VESTED AT THE TIME OF DEATH THE PROPERTY BECOMES VESTED SOLELY IN THE SURVIVOR BY VIRTUE OF DEVISE BY OR

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

LBD07401-01-9

DESCENT FROM THE DECEASED HUSBAND OR WIFE, THE TIME OF OWNERSHIP OF THE PROPERTY BY THE DECEASED HUSBAND OR WIFE SHALL BE DEEMED ALSO A TIME OF OWNERSHIP BY THE SURVIVOR AND SUCH OWNERSHIP SHALL BE DEEMED CONTINUOUS FOR THE PURPOSES OF COMPUTING SUCH PERIOD OF THIRTY-SIX CONSECUTIVE MONTHS. IN THE EVENT OF A TRANSFER BY EITHER A HUSBAND OR WIFE TO THE OTHER SPOUSE OF ALL OR PART OF THE TITLE TO THE PROPERTY, THE TIME OF OWNERSHIP OF THE PROPERTY BY THE TRANSFEROR SPOUSE SHALL BE DEEMED ALSO A TIME OF OWNERSHIP BY THE TRANSFEREE SPOUSE AND SUCH OWNERSHIP SHALL BE DEEMED CONTINUOUS FOR THE PURPOSES OF COMPUTING SUCH PERIOD OF THIRTY-SIX CONSECUTIVE MONTHS.

(C) THE PROPERTY IS USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES, PROVIDED, HOWEVER, THAT IN THE EVENT ANY PORTION OF SUCH PROPERTY IS NOT SO USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES BUT IS USED FOR OTHER PURPOSES, SUCH PORTION SHALL BE SUBJECT TO TAXATION AND THE REMAINING PORTION ONLY SHALL BE ENTITLED TO A CAP PROVIDED BY THIS SECTION.

(D) THE REAL PROPERTY IS THE LEGAL RESIDENCE OF AND IS OCCUPIED IN WHOLE OR IN PART BY THE OWNER OR BY ALL OF THE OWNERS OF THE PROPERTY, PROVIDED THAT AN OWNER WHO IS ABSENT WHILE RECEIVING HEALTH-RELATED CARE AS AN INPATIENT OF A RESIDENTIAL HEALTH CARE FACILITY, AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW, SHALL BE DEEMED TO REMAIN A LEGAL RESIDENT AND AN OCCUPANT OF THE PROPERTY WHILE SO CONFINED AND INCOME ACCRUING TO THAT PERSON SHALL BE INCOME ONLY TO THE EXTENT THAT IT EXCEEDS THE AMOUNT PAID BY SUCH OWNER, SPOUSE, OR CO-OWNER FOR CARE IN THE FACILITY; AND PROVIDED FURTHER, THAT DURING SUCH CONFINEMENT SUCH PROPERTY IS NOT OCCUPIED BY OTHER THAN THE SPOUSE OR CO-OWNER OF SUCH OWNER.

3. EACH GOVERNING BOARD OF ANY MUNICIPAL CORPORATION THAT SHALL HAVE ADOPTED A TAX CAP PURSUANT TO THIS SECTION SHALL NOTIFY, OR CAUSE TO BE NOTIFIED, EACH PERSON OWNING RESIDENTIAL REAL PROPERTY IN SUCH MUNICIPAL CORPORATION OF THE PROVISIONS OF THIS SECTION. THE PROVISIONS OF THIS SUBDIVISION MAY BE MET BY A NOTICE OR LEGEND SENT ON OR WITH EACH TAX BILL TO SUCH PERSONS READING "YOU MAY BE ELIGIBLE FOR A SENIOR RESIDENT TAX CAP. SENIOR RESIDENTS HAVE UNTIL MONTH ...., DAY....., YEAR...., TO APPLY FOR SUCH CAP. FOR FURTHER INFORMATION, PLEASE CONTACT YOUR LOCAL ASSESSOR." FAILURE TO NOTIFY, OR CAUSE TO BE NOTIFIED ANY PERSON WHO IS IN FACT, ELIGIBLE TO RECEIVE A CAP PROVIDED BY THIS SECTION OR THE FAILURE OF SUCH PERSON TO RECEIVE THE SAME SHALL NOT PREVENT THE LEVY, COLLECTION AND ENFORCEMENT OF THE PAYMENT OF THE TAXES ON PROPERTY OWNED BY SUCH PERSON.

4. APPLICATION FOR SUCH CAP MUST BE MADE BY THE OWNER, OR ALL OF THE OWNERS OF THE PROPERTY, ON FORMS PRESCRIBED BY THE STATE BOARD TO BE FURNISHED BY THE APPROPRIATE ASSESSING AUTHORITY AND SHALL FURNISH THE INFORMATION AND BE EXECUTED IN THE MANNER REQUIRED OR PRESCRIBED IN SUCH FORMS, AND SHALL BE FILED IN SUCH ASSESSOR'S OFFICE ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE.

5. AT LEAST SIXTY DAYS PRIOR TO THE APPROPRIATE TAXABLE STATUS DATE, THE ASSESSING AUTHORITY SHALL MAIL TO EACH PERSON WHO WAS GRANTED A CAP PURSUANT TO THIS SECTION ON THE LATEST COMPLETED ASSESSMENT ROLL AND APPLICATION FORM AND A NOTICE THAT SUCH APPLICATION MUST BE FILED ON OR BEFORE THE TAXABLE STATUS DATE AND BE APPROVED IN ORDER FOR THE CAP TO BE GRANTED. THE ASSESSING AUTHORITY SHALL, WITHIN THREE DAYS OF THE COMPLETION AND FILING OF THE TENTATIVE ASSESSMENT ROLL, NOTIFY BY MAIL ANY APPLICANT WHO HAS INCLUDED WITH HIS APPLICATION AT LEAST ONE SELF-ADDRESSED, PREPAID ENVELOPE, OF THE APPROVAL OR DENIAL OF THE APPLICATION; PROVIDED, HOWEVER, THAT THE ASSESSING AUTHORITY SHALL, UPON THE RECEIPT AND FILING OF THE APPLICATION, SEND BY MAIL NOTIFICATION OF

RECEIPT TO ANY APPLICANT WHO HAS INCLUDED TWO OF SUCH ENVELOPES WITH THE APPLICATION. WHERE AN APPLICANT IS ENTITLED TO A NOTICE OF DENIAL PURSUANT TO THIS SUBDIVISION, SUCH NOTICE SHALL BE ON A FORM PRESCRIBED BY THE STATE BOARD AND SHALL STATE THE REASONS FOR SUCH DENIAL AND SHALL FURTHER STATE THAT THE APPLICANT MAY HAVE SUCH DETERMINATION REVIEWED IN THE MANNER PROVIDED BY LAW.

(A) AN OWNER ELIGIBLE FOR THE CAP MAY REQUEST THAT A NOTICE BE SENT TO AN ADULT THIRD PARTY. SUCH REQUEST SHALL BE MADE ON A FORM PRESCRIBED BY THE STATE BOARD AND SHALL BE SUBMITTED TO THE ASSESSOR OF THE ASSESSING UNIT IN WHICH THE ELIGIBLE TAXPAYER RESIDES NO LATER THAN SIXTY DAYS BEFORE THE FIRST TAXABLE STATUS DATE TO WHICH IT IS TO APPLY. SUCH FORM SHALL PROVIDE A SECTION WHEREBY THE DESIGNATED THIRD PARTY SHALL CONSENT TO SUCH DESIGNATION. SUCH REQUEST SHALL BE EFFECTIVE UPON RECEIPT BY THE ASSESSOR. THE ASSESSOR SHALL MAINTAIN A LIST OF ALL ELIGIBLE PROPERTY OWNERS WHO HAVE REQUESTED NOTICES PURSUANT TO THIS SUBDIVISION.

(B) A NOTICE SHALL BE SENT TO THE DESIGNATED THIRD PARTY AT LEAST THIRTY DAYS PRIOR TO EACH ENSUING TAXABLE STATUS DATE; PROVIDED THAT NO SUCH NOTICE NEED BE SENT IN THE FIRST YEAR IF THE REQUEST WAS NOT RECEIVED BY THE ASSESSOR AT LEAST SIXTY DAYS BEFORE THE APPLICABLE TAXABLE STATUS DATE. SUCH NOTICE SHALL READ SUBSTANTIALLY AS FOLLOWS:

"ON BEHALF OF (IDENTIFY PERSON OR PERSONS ELIGIBLE FOR THE CAP), YOU ARE ADVISED THAT HIS, HER, OR THEIR RENEWAL APPLICATION FOR THE SENIOR TAX CAP MUST BE FILED WITH THE ASSESSOR NO LATER THAN (ENTER DATE). YOU ARE ENCOURAGED TO REMIND HIM, HER, OR THEM OF THAT FACT, AND TO OFFER ASSISTANCE IF NEEDED, ALTHOUGH YOU ARE UNDER NO LEGAL OBLIGATION TO DO SO. YOUR COOPERATION AND ASSISTANCE ARE GREATLY APPRECIATED."

(C) THE OBLIGATION TO MAIL SUCH NOTICES SHALL CEASE IF THE ELIGIBLE TAXPAYER CANCELS THE REQUEST OR CEASES TO QUALIFY FOR THE SENIOR TAX CAP.

(D) FAILURE TO MAIL ANY NOTICE REQUIRED BY THIS SUBDIVISION, OR THE FAILURE OF A PARTY TO RECEIVE SAME, SHALL NOT AFFECT THE VALIDITY OF THE LEVY, COLLECTION, OR ENFORCEMENT OF TAXES ON PROPERTY OWNED BY SUCH PERSON, OR IN THE CASE OF A THIRD PARTY NOTICE, ON PROPERTY OWNED BY THE PERSON OR PERSONS ELIGIBLE FOR A SENIOR TAX CAP.

6. ANY CONVICTION OF HAVING MADE ANY WILLFUL FALSE STATEMENT IN THE APPLICATION FOR SUCH CAP, SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS AND SHALL DISQUALIFY THE APPLICANT OR APPLICANTS FROM FURTHER TAX CAP.

S 2. This act shall take effect on the first of February next succeeding the date on which it shall have become a law and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.